REMARKS

In the Office Action of May 12, 2005, claims 1-22 stand rejected. In this response claims 1, 3, 7, 5, 8, 10, 13, 14, 15, 16, 18 and 21 are amended. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks. No new subject matter is being added by this response.

I. REJECTION UNDER 35 U.S.C. §103

To establish a prima facie case of obviousness under 35 U.S.C. § 103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicants' disclosure. A failure to meet any one of these criteria is a failure to establish a prima facie case of obviousness. MPEP §2143.

Claims 1, 3, 5-8, 10, 12, 13, and 21-22 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,157,955 to Narad (*Narad*) in view of "Using the Accelar 710 Service Switch" published by Nortel (*Nortel*). The Examiner contends that *Narad* discloses all the limitations of the present invention except the use of the SSL protocol. The Examiner further argues that *Nortel* discloses using the SSL protocol. Therefore, the Examiner concludes that it would be obvious to one of skill in the art to combine the teachings of *Narad* with the use of the SSL protocol, as taught in *Nortel*.

Narad discloses a general purpose packet processing platform that uses a policy engine to transform inbound packets to outbound packets. Based on applications running on a policy processor, an inbound packet can be transmitted, decrypted, classified or have some other action performed on it. In *Narad*, the packets are received from and released to Ethernet connections. (See Figure 4). Thus, *Narad* is drawn to a device that operates at the local area network level. *Nortel* discloses a hardware switch that can process SSL traffic. Applicant respectfully traverses the rejection, for the reasons set forth below.

A. THERE IS NO SUGGESTION OR MOTIVATION TO COMBINE THE CITED ART.

First, the references teach away from the proposed combination. As argued previously, *Narad* explicitly teaches away from the use of switches to provide packet processing. (Column 3, lines 18-43). For example, *Narad* argues that switched-based packet processing is not cost effective, that switch-based processors lack processing power, and that porting applications to switches is difficult. The *Nortel* reference discloses a switch for use in SSL processing. Since *Narad* teaches away from the use of switches to provide packet processing, one of ordinary skill in the art, when considering the teachings of *Narad*, would not consider *Nortel* since it deals with an approach that is criticized and disapproved by *Narad*. Since it is "improper to combine references where the references teach away from their combination", the combination of art is improper and the rejections based on this combination should be withdrawn. MPEP 2145.

The Examiner argues that *Narad* teaches a general purpose packet processing device that reduces the workload on network resources and is adaptable and highly programmable. Further, the Examiner argued that *Nortel* is a packet processing device that accelerates SSL transactions. The Examiner concluded that since both are packet processors aimed at the reduction of workload in a network, motivation for the combination exists.

In order to justify motivation, the Examiner fails to consider the prior art as a whole and ignores what the art actually teaches. Clearly, *Narad* teaches away from using switches and routers for packet processing. *Nortel's* advantages in SSL processing flowing solely from that fact it is a switch based packet processor. Therefore, one of ordinary skill in the art, when considering the *Narad* patent, would be taught not to make the proposed combination.

The Examiner further contends that the modified device of the *Narad/Norel* is a general purpose machine and that the criticism of switches was a criticism of switches that existed at the time of *Narad's* invention. However, the fact that a proposed combination may be a general purpose machine does not negate the fact that there is not a prima facie case to make the combination. Also, there is nothing on the record to indicate that the switches that existed at the time of *Narad* are any different than those of today. Also, *Narad* was published after *Nortel*, indication that the criticism of switch based solutions would apply to the *Nortel* switch.

B. THE *NARAD/NORTEL* COMBINATION FAILS TO TEACH OR SUGGEST ALL OF THE CLAIM LIMITATIONS.

1. NARAD IN VIEW OF NORTEL

Additionally, the proposed *Narad/Nortel* combination fails to disclose, teach, or suggest examining "the header of the plurality of packets to determine if the packet is an encrypted packet" and that then the encrypted packets are sent to be decrypted. In *Narad*, the received packets are placed in a buffer and certain information about the packet are placed in the buffer. This information includes what software is needed to process the packet. Thus, *Narad* transports both a packet and information about the packet, which is stored in a different data structure. The addition of Nortel does not overcome the shortcomings of *Narad*. Therefore, the proposed *Narad/Nortel* fails to teach all of the limitations of claim 1. Independent claims 8, 15 and 21 contain similar limitations and, therefore, are in condition for allowance. Since independent claims 1m 8, 15 and 21 are allowable, the dependent claims of 2-7, 9-14, 15-20 and 22 are in condition for allowance.

2. NARAD AND NORTEL IN VIEW OF NETSCAPE.

Claims 2 and 9 stand rejected as unpatentable over *Narad* and *Nortel* and further in view of *Netscape*. Claim 2 depends from claim 1 and claim 9 depends from claim 8. Claims 1 and 8 are in condition for allowance; therefore, claims 2 and 9 are in condition for allowance.

3. NARAD AND NORTEL IN VIEW OF BAKHTIARI.

Claims 4 and 11 stand rejected as unpatentable over *Narad* and *Nortel* and further in view of *Bakhtiari*. Claim 4 depends from claim 1 and claim 11 depends from claim 8. Claims 1 and 8 are in condition for allowance; therefore, claims 4 and 11 are in condition for allowance.

4. NARAD AND NORTEL IN VIEW OF SHOSTAK.

Claims 14-18 stand rejected under *Narad* and *Nortel* and further in view of *Shostak*. Applicant respectfully traverses these rejections.

Claim 14 depends from allowable claim 1; therefore, claim 14 is allowable.

Considering independent claim 15, claim 15 has been amended to recites elements not found in the *Narad/Nortel* combination and therefore, are not in the *Narad/Nortel/Shostak* combination. Therefore, Claim 15 is allowable. For at least this reason, claims 16-18 are also allowable.

II. CONCLUSION

For the foregoing reasons, the present application is believed to be in condition for allowance and favorable action is respectfully requested. The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

While no other fees are believed due, the applicant hereby requests that any other required fee to maintain pendency of this case, except for the Issue Fee, be charged to Deposit Account 50-2091.

Respectfully submitted,
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